

**December 6, 1999**  
**OPINION NUMBER 99-385**

Mr. Lawrence "Tubby" St. Blanc  
Executive Secretary  
Louisiana Public Service Commission  
Post Office Box 91154  
Baton Rouge, Louisiana 70821-9154

Dear Mr. St. Blanc:

You have requested an Attorney General's opinion as to whether or not a commissioner may attend and vote at an open meeting of the Public Service Commission by video telephone.

You state that this commissioner is unable to attend this meeting in person due to medical or other urgent reasons. You also state that the commissioner would attend and vote by way of a video phone where the live image with audio of the commissioner could be observed and recorded.

LSA-R.S. 42:5 provides:

- 1Every meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:6.2.
- 2Each public body shall be prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of R.S. 42:4.1 through R.S. 42:8.
- 3All votes made by members of a public body shall be viva voce and shall be recorded in the minutes, journal, or other official, written proceedings of the body, which shall be a public document.

The "viva voce" voting requirement in the above cited provision is a "living voice" or "live voice" requirement. This office is of the opinion that a vote by viva voce requires the person voting to be physically present. An appearance by telephone or video telephone does not satisfy this requirement.

This reasoning is reinforced by LSA-R.S. 42:7.1 which requires the written minutes of a public body to include the "members of the public body recorded as either present or absent."

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In order to establish a quorum of a public body, it is the opinion of this office that the physical presence of a simple majority of the total membership of that body is required. While we

regret any health or other limitations that may cause the commissioner at issue miss a meeting of the Public Service Commission, the commissioner's deliberation or action via video telephone would not satisfy the presence requirement for purposes of the open meetings laws.

I trust this addresses your concerns. Please contact this office should you request further assistance.

Yours very truly,

RICHARD P. IEYOUNG  
ATTORNEY GENERAL

BY: \_\_\_\_\_  
CARLOS M. FINALET, III  
ASSISTANT ATTORNEY GENERAL

RPI:CMF/mjb

**SYLLABUS**  
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90 - B - 4 -    Public Meeting  
                    State and Local  
LSA-R.S. 42:5, 42:7.1

Deliberation or action by video telephone would be a violation of the open meetings laws.

Mr. Lawrence "Tubby" St. Blanc  
Louisiana Public Service Commission  
Post Office Box 91154  
Baton Rouge, Louisiana 70821-9154

Date Received:  
Date Released: 12/06/99

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ASSISTANT ATTORNEY GENERAL